

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Cement and Concrete Facilities
LAC 33:III.317 (Log #AQ299)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative Code 33:III. A rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the rule will have to apply for and be issued a traditional permit. The basis and rationale for this rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on March 30, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by Log #AQ299. Such comments must be received no later than April 6, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ299. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§315. Regulatory Permit for Concrete Manufacturing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

B. Control of Fugitive Emissions

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-5.

2. Emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following:

a. open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion;

b. earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed; and

c. in-plant roads, vehicle work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

C. Filter Vents (Baghouses)

1. Monitoring and Repair

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every six months or whenever visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

D. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. Opacity

a. Limitations

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

b. Monitoring and Recordkeeping

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-

sound means.

b. Operating time of each ICE shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form (the form and guidance concerning it can be obtained from the Office of Environmental Services or through the department's website).

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULESLOG #: AQ299

Person

Preparing

Statement: Darlene Dosher-Collard
Phone: (225) 219-3100Dept.: Department of Environmental Quality
Office: Office of Environmental Services

Return

Address: P.O. Box 4313
Baton Rouge, LA 70821-4313

Rule

Title: Regulatory Permit for Concrete
Manufacturing Facilities
(LAC 33:III.315)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

R.S. 30:2054(B)(9)(b)(vii) provides for "regulatory permits", and requires an applicant seeking such a permit to "submit a written notification ... in lieu of submission of a permit application." Because under this proposed rule the notification form will be specifically tailored to the activity addressed by the regulatory permit, and will replace existing permit application forms, this permitting mechanism should increase the efficiency of the department, resulting in no increased implementation costs to the applicants or the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No increase or decrease in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required had a permit been applied for and issued pursuant to LAC 33:III.501, or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the activity now to be covered by this regulatory permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Applicants for this regulatory permit will be required to submit a notification form specifically tailored to the activity addressed by the regulatory permit. However, this notification form will be in place of the traditional, more generic permit application and should not require additional time to complete. Use of a notification form specifically tailored to the activity addressed by this regulatory permit provision should also allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, which will not cause any increased costs, and may result in some economic benefits, to applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit rule has been determined complete.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of a standardized rule. The rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative Code 33:III. A rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the rule will have to apply for and be issued a traditional permit.

Pursuant to R.S. 30:2054(B)(9)(b)(viii), all provisions authorizing such permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019 ---Promulgation of Rules and Regulations.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, this proposed rule will not result in any net increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ____ Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

No costs or savings to state agencies are anticipated as a result of this proposed rule.

COSTS	FY 09-10	FY 10-11	FY 11-12
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This question is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 09-10	FY 10-11	FY 11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funds are required to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local governmental units is anticipated.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no costs or savings to local governmental units, so no funding sources will be affected.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required had a permit been applied for and issued pursuant to LAC 33:III.501, or if another approval mechanism (e.g., a variance) had been employed to authorize air emission from the activity now to be covered by the regulatory permit.

REVENUE INCREASE/DECREASE	FY 09-10	FY 10-11	FY 11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

No increase or decrease in revenues will be realized.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action?

For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Any applicant seeking approval to conduct an air-emissions-producing activity that can be authorized by the regulatory permit envisioned by the proposed rule will be affected by the proposed action. Applicants for this regulatory permit will be required to submit a notification form specifically tailored to the activity addressed by the regulatory permit. This notification form will be in place of the traditional, more generic permit application and should not require additional time to complete.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit provision should also allow the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, which will not cause any increased costs, and may result in some economic benefits, to applicants.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impacts on receipts or income of the affected persons or groups is expected.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition or employment in the public or private sector.